

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, ET AL.**

PLAINTIFFS

VS.

CASE NO. 3:23-cv-00272-HTW-LGI

**TATE REEVES, in his official capacity
As Governor of the State of Mississippi, ET AL.**

DEFENDANTS

**STATE DEFENDANTS’ RESPONSE IN OPPOSITION TO PLAINTIFFS’ MOTION
FOR LEAVE TO FILE FIRST AMENDED COMPLAINT [DKT. #80]**

Defendants Sean Tindell, in his official capacity as Commissioner of the Mississippi Department of Public Safety, Bo Luckey, in his official capacity as Chief of the Mississippi Department of Public Safety Office of Capitol Police, and Lynn Fitch, in her official capacity as Attorney General of the State of Mississippi, (hereinafter collectively “the State Defendants”) by and through counsel, file this their response in opposition to Plaintiffs’ motion for leave to file an amended complaint [Dkt. #80], and in support thereof would show unto the Court the following:

1. Plaintiffs’ motion for leave to file an amended complaint [Dkt. #80] should be denied as futile because Plaintiffs lack standing. That defect is not cured by the proposed amended complaint.
2. The motion should further be denied because the amendment sought will unfairly prejudice the State Defendants by unduly delaying resolution of the improper TRO that is indefinitely barring critical judicial appointments mandated by H.B. 1020.
3. The State Defendants adopt and incorporate by reference, as if fully and completely set forth herein, the arguments and authorities set forth in the *Memorandum of Authorities in*

Support of State Defendants' Response in Opposition to Plaintiffs' Motion for Leave to File First Amended Complaint [Dkt. #80], being filed contemporaneously herewith. The State Defendants further adopt and incorporate by reference the arguments made *ore tenus* on their behalf at the motion hearings conducted in this case on May 22, June 14, and June 29, 2023.

4. On the basis of the grounds asserted herein and as further set forth in the aforementioned memorandum of authorities, Plaintiffs' motion for leave to amend their complaint should be denied.

WHEREFORE, PREMISES CONSIDERED, the State Defendants respectfully request that the Court (1) make and enter its Order denying Plaintiffs' motion for leave to file a first amended complaint [Dkt. #80]; and (2) proceed to (a) dissolve the pending TRO, deny Plaintiffs' motion for preliminary injunction without the necessity of further hearing, and dismiss Plaintiffs' judicial appointment claim, or (b) rule upon Plaintiffs' fully-briefed motion for preliminary injunction [Dkt. #39] without further delay.

THIS the 17th day of August, 2023.

Respectfully submitted,

SEAN TINDELL, in his official capacity as
Commissioner of the Mississippi Department of
Public Safety; BO LUCKEY, in his official capacity
as Chief of the Mississippi Department of Public
Safety Office of Capitol Police; and LYNN FITCH,
in her official capacity as Attorney General of the
State of Mississippi, DEFENDANTS

By: LYNN FITCH, ATTORNEY GENERAL
FOR THE STATE OF MISSISSIPPI

By: s/Rex M. Shannon III
REX M. SHANNON III (MSB #102974)
Special Assistant Attorney General

REX M. SHANNON III (MSB #102974)
GERALD L. KUCIA (MSB #8716)
STATE OF MISSISSIPPI
OFFICE OF THE ATTORNEY GENERAL
CIVIL LITIGATION DIVISION
Post Office Box 220
Jackson, Mississippi 39205-0220
Tel.: (601) 359-4184
Fax: (601) 359-2003
rex.shannon@ago.ms.gov
gerald.kucia@ago.ms.gov

ATTORNEYS FOR DEFENDANTS
SEAN TINDELL, in his official capacity as Commissioner
of the Mississippi Department of Public Safety; BO LUCKEY,
in his official capacity as Chief of the Mississippi
Department of Public Safety Office of Capitol Police;
and LYNN FITCH, in her official capacity as
Attorney General of the State of Mississippi

CERTIFICATE OF SERVICE

I, Rex M. Shannon III, Special Assistant Attorney General and one of the attorneys for the above-named defendants, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF filing system, which sent notification of such filing to all counsel of record.

THIS the 17th day of August, 2023.

s/Rex M. Shannon III
REX M. SHANNON III